

Federal Acquisition Regulation

9.406-5

and any affiliates involved shall be given prompt notice by certified mail, return receipt requested—

(i) Referring to the notice of proposed debarment;

(ii) Specifying the reasons for debarment;

(iii) Stating the period of debarment, including effective dates; and

(iv) Advising that the debarment is effective throughout the executive branch of the Government unless the head of an agency or a designee makes the statement called for by 9.406-1(c).

(2) If debarment is not imposed, the debarring official shall promptly notify the contractor and any affiliates involved, by certified mail, return receipt requested.

[48 FR 42142, Sept. 19, 1983, as amended at 54 FR 19815, May 8, 1989; 59 FR 67033, Dec. 28, 1994]

9.406-4 Period of debarment.

(a)(1) Debarment shall be for a period commensurate with the seriousness of the cause(s). Generally, debarment should not exceed 3 years, except that—

(i) Debarment for violation of the provisions of the Drug-Free Workplace Act of 1988 (see 23.506) may be for a period not to exceed 5 years; and

(ii) Debarments under 9.406-2(b)(2) shall be for one year unless extended pursuant to paragraph (b) of this subsection.

(2) If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(b) The debarring official may extend the debarment for an additional period, if that official determines that an extension is necessary to protect the Government's interest. However, a debarment may not be extended solely on the basis of the facts and circumstances upon which the initial debarment action was based. Debarments under 9.406-2(b)(2) may be extended for additional periods of one year if the Secretary of Homeland Security or the Attorney General determines that the contractor continues to be in violation of the employment provisions of the Immigration and Nationality Act. If debarment for an additional period is determined to be necessary, the proce-

dures of 9.406-3 shall be followed to extend the debarment.

(c) The debarring official may reduce the period or extent of debarment, upon the contractor's request, supported by documentation, for reasons such as—

(1) Newly discovered material evidence;

(2) Reversal of the conviction or civil judgment upon which the debarment was based;

(3) Bona fide change in ownership or management;

(4) Elimination of other causes for which the debarment was imposed; or

(5) Other reasons the debarring official deems appropriate.

[48 FR 42142, Sept. 19, 1983, as amended at 54 FR 4968, Jan. 31, 1989; 54 FR 19815, May 8, 1989; 55 FR 21707, May 25, 1990; 61 FR 41473, Aug. 8, 1996; 69 FR 34231, June 18, 2004]

9.406-5 Scope of debarment.

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one contractor participating in a joint venture or similar arrangement may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of these contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.